

# COMPLAINT

(for filers who are prisoners without lawyers)

CLERK USDC EDWI

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

2023 APR -6 PM 2:16

(Full name of plaintiff)

DENZEL SAMONTA RIVERS

v.

Case Number:

23-C-0453

(Full name of defendant(s))

(to be supplied by Clerk of Court)

Kyle Demers, Robert Rymarkiewicz, Thomas Nelson,  
John Doe Banks AKA "Jane Doe Banks", John Doe,  
Lana Wilson, Randall Hepp

## A. PARTIES

1. Plaintiff is a citizen of WISCONSIN, and is located at  
(State)

Milwaukee Secure Detention Facility, P.O. Box 05911, Milwaukee, WI 53205-0911  
(Address of prison or jail)

2. Defendant Kyle Demers, Robert Rymarkiewicz, Thomas Nelson, John Doe Banks "AKA"  
Jane Doe Banks, John Doe, LANA WILSON, Randall Hepp  
(Name)  
is (if a person or private corporation) a citizen of WISCONSIN  
(State, if known)  
and (if a person) resides at LINKNOWIN  
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for Waupun Correctional Institution, P.O. Box 351, Waupun, WI 53935 "AND"

Milwaukee Secure Detention Facility, 1015 N. 10th St, Milwaukee, WI 53205  
(Employer's name and address, if known)  
(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

1) On October 25<sup>th</sup>, 2021 Plaintiff Denzel S. Rivers #503053 was housed in Waupun Correctional Institution Segregation unit cell A-104 during first and second shift.

2.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit during first and second shift Defendants were employed in this unit.

3.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit during first shift inmate Dewon Walton was housed next to Plaintiff in cell ~~101~~ A-103

4.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit during the end of second shift Defendants Sergeant Kyle Demers, Captain Robert Kyparkiewicz, Sergeant Thomas Nelson, and John Doe officers ~~and other officers~~

~~and other officers~~



prepared to conduct a Cell Extraction on inmate Dawson Walton in cell A-103.

5.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit during the end of second shift, Defendants, Captain Robert Rymaszewicz, Sergeant Kyle Demers, Sergeant Thomas Nelson and John Doe officer all had body cameras attached to their State issued uniforms to capture Audio and Video prior to converting to their cell extraction protective gear.

6.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit during the preparing for the cell extraction of inmate Dawson Walton in cell A-103 Defendants stood next to John Doe officer who held a hand held camera that captured the entire encounter with inmate Dawson Walton including Audio/Video.

7.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Defendants used this same ~~the~~ hand held camera to Debrief one another, for record keeping, of the entire encounter with inmate Dawson Walton AFTER THE ENCOUNTER WAS COMPLETED, revealing all staff members involved.

8.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Plaintiff can be heard yelling out to Defendants of Plaintiff's full name being Denzel Kiers inmate number 503053 to include cell number A-104 and that plaintiff is a ~~an~~ ASTHMATIC inmate and to be removed from cell A-104 prior to inmate Dawson Walton in cell A-102 being sprayed with incapacitating agent AKA OC-Spray, all being captured on Defendants body camera as well as the hand held camera John Doe officer held.

9.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit as well as PRIOR to this said date Defendants were aware that plaintiff was ASTHMATIC ~~and~~ due to prior prison encounters, of record, with Plaintiff and Defendants.

10.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Defendant Captain Robert Rymaszewicz carried out the orders to initiate incapacitating chemical agent into the cell A-103 of inmate Dawson Walton that was next to Plaintiff in cell A-104 with knowledge that plaintiff has Asthma.

11.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Defendant Sergeant Kyle Demers, Defendant Sergeant Thomas Nelson, Defendant John Doe officer all participated in initiating incapacitating chemical agent into the cell A-103 of inmate Dawson Walton



that was next to Plaintiff in cell A-104 with knowledge that plaintiff has Asthma.

12.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Defendants sprayed inmate Dawhan Walton TWICE before TURNING ON THE VENTS which caused Plaintiff, in next cell, to receive 2<sup>nd</sup> hand exposure to the incapacitating chemical agent spray initiated in cell A-103.

13.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit Plaintiff can be heard trying to yell to Defendants that Plaintiff can NOT Breathe, Have asthma, and need to see Health Service Staff while also coughing out loud after Defendants used incapacitating chemical agent on inmate Dawhan Walton in cell A-103 next to plaintiff cell A-104.

14.) Plaintiff was provided No Assistance from Defendants, on October 25<sup>th</sup>, 2021.

15.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit at or around 2:15 p.m. ~~Plaintiff~~ Plaintiff initially pushed his Medical Emergency call button in cell A-104 asking John Doe Banks AKA Jane Doe Banks "Defendant" for assistance but was informed that Plaintiff CAN NOT see Health Services right now and Defendant John Doe/Jane Doe Banks ended the call without providing Plaintiff Medical assistance.

16.) Plaintiff developed difficulties with breathing causing plaintiff to suffer shortness of breath, tight chest, wheezing after Plaintiff was exposed to incapacitating chemical agent all being signs of a triggered Asthma attack, to include pain to side due to coughing so hard.

17.) On October 25<sup>th</sup>, 2021 in Waupun Correctional Institution Segregation unit at exactly 2:30 p.m. Plaintiff pushed his Medical Emergency call button in cell A-104 to inform John Doe/Jane Doe Banks are aware of Plaintiff's Medical Condition in which Defendant John Doe/Jane Doe Banks stated Defendant Sergeant Thomas Nelson was ~~not~~ notified but ~~did~~ provided No Medical Attention.

18.) Waupun Correctional Institution Segregation Unit Control Bubble, on October 25<sup>th</sup>, 2021, had a LOG BOOK in which Staff Members who answer inmates Medical Emergency MUST MANUALLY document when a inmate call in about a Emergency.

19.) On October 25<sup>th</sup>, 2021 Defendant John Doe/Jane Doe Banks was working in Waupun Correctional Institution Segregation Control Bubble as a Officer who was initially from



Milwaukee Secure Detention Facility in Milwaukee County Under a two week contract given that Waupun Correctional Institution was short staff.

20.) Plaintiff, at this time, then post out. When plaintiff came to, Plaintiff then begin to kick the door to cell A-104 using the little energy plaintiff had that caught the attention of Non-Defendant Jane Doe Nash who then was alerted of plaintiff Medical condition who then alerted Medical staff.

21.) At 4:39 p.m. plaintiff was then provided Medical Attention by Waupun Prison nurse Andrea M. Blecher for "Acute/chronic respiratory," wheezing heard in all lung fields" and was provided a Nebulizer breathing treatment to a small machine. Nurse Andrea M. Blecher also stated plaintiff had his Albuterol inhaler in room and used, but not effective, revealing plaintiff still needed the Nebulizer breathing treatment. "See Exhibit #1 of nurse reports dated 10-25-21 at 16:39 p.m."

22.) Plaintiff could have Died behind this asthma attack due to the 2nd hand exposure to incapacitating chemical Agent spray Defendants caused without providing plaintiff medical attention.

23.) Prior to the use of incapacitating chemical spray Defendants used on inmate Dawson Walton in cell A-103 on October 25<sup>th</sup> 2021 in Waupun Correctional Institution Segregation unit it is of Department of Corrections record that inmate Dawson Walton is KNOWN even by Defendants from experience that inmate Dawson Walton normally take SEVERAL sprays of incapacitating chemical spray to get this inmate to comply.

24.) Defendants filed incident reports under Department of Correction Records of the Use of force used on inmate Dawson Walton on October 25<sup>th</sup> 2021 in Waupun Correctional Institution Segregation unit that resulted in plaintiff Exposure to chemical incapacitating spray triggering Plaintiff Asthma attack.

25.) On November 1<sup>st</sup> 2021 plaintiff filed Complaint # G.B.C.I-2021-16591 "Complaints Staff failed to provide Medical attention after 2nd hand Exposure to O.C" in which Waupun Correctional Institution Complaint Examiner Defendant Lara Wilson REJECTED this Complaint without properly investigating this Complaint to speak with Defendant John Doe/Jane Doe Banks who answered plaintiff Medical Emergency calls on October 25<sup>th</sup> 2021 claiming Emergency call log do not reveal plaintiff pushing plaintiff's Emergency ~~button~~ call button, which is documented MANUALLY that should have been done by Defendant Jane Doe/John Doe Banks. Incident Report # OCT92267 reveals "O.C spray being



Used in inmate Dawson Walton. Plaintiff Exhaust that Administrative Remedy, "See Exhibit #2 of Complaint."

26.) On November 23<sup>rd</sup>, 2021 Appropriate Reviewing Authority Defendant Randall Hepp Revealed that the rejection made by the I.C.E was Appropriate to Complaint #68CI-2021-16591 revealing that plaintiff Exhaust all Administrative Remedies. "See Exhibit #3 of Appeal Decision."

27.) Both Complaint Examiner Defendant Lana Wilson and Appropriate Reviewing Authority Defendant Randall Hepp FAILED TO INTERVENE within Complaint #6.B.C.I-2021-16591 in relation to this claim. Neither investigated this complaint and showed nothing of record to reveal a thorough investigation.

28.) Plaintiff was transported from Waupun Correctional Institution on October 28<sup>th</sup>, 2021 and placed at Green Bay Correctional Institution which gave the Complaint Plaintiff filed, in relation to events in this claim, the Green Bay Correctional Institution abbreviations. "#6.B.C.I-2021-16591"

29.) None of the Defendants acted according to Department of Corrections Policy and Procedures when dealing with Plaintiff on October 25<sup>th</sup>, 2021 in relation to D.O.C 306.09(6) Use of incapacitating Agents "Medical Attention and Clean-up". As soon as possible after an incapacitating agent has been used, staff "SHALL" provide Exposed inmates an opportunity for any necessary hygienic needs and "SHALL" CONSULT WITH MEDICAL STAFF WHO SHALL PROVIDE ANY APPROPRIATE MEDICAL CARE.

30.) Defendants are all Defendants to Prior civil claims by Plaintiff as well as staff members to Institution Complaints Plaintiff filed against Defendants Prior to this claim making Defendants actions in this claim acts of Retaliation. Excluding Defendant Joe Dee/John Dee Books of Prior acts

31.) Defendants showed Deliberate Indifference to Plaintiff Medical Condition that was of knowledge Prior to events in this claim and Defendants could have moved Plaintiff Prior to events in this claim and as a direct result of Defendants actions acting under color of State Law Plaintiff was deprived of a right secured by the constitution. Defendants shall NOT be entitled to Qualified Immunity.

32.) Plaintiff was left under Cruel and Unusual Punishment from 1:45 p.m until 4:39 p.m in Waupun Correctional Institution's Segregation Unit on October 25<sup>th</sup>, 2021.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Denzel D. Rivers



**Assessment Forms**

Unspecified Personality Disorder with cluster B features  
*Classification:* Psychology ; *Clinical Service:* Non-Specified ;  
*Code:* ICD-10-CM ; *Probability:* 0 ; *Diagnosis Code:* F32.9  
*Date:* 11/29/2018 ; *Diagnosis Type:* Working ; *Confirmation:*  
Confirmed ; *Clinical Dx:* Unspecified Personality Disorder with  
cluster B features ; *Classification:* Psychology ; *Clinical*  
*Service:* Non-Specified ; *Code:* ICD-10-CM ; *Probability:* 0 ;  
*Diagnosis Code:* F60.9

**Nursing Protocols v.2.copay**

*Nursing Protocol Initiated :* Acute/Chronic Respiratory

*Nursing Interventions and Actions:* : PIOC had secondary exposure to OC spray. Hx of asthma. Did have albuterol inhaler in room and used, but not effective. Wheezing heard in all lung fields. Brought to tx room and Duoneb administered per protocol. Wheezing improved after treatment. Pt reported feeling much better. Did state Albuterol inhaler only has 24 inhalations left. Educated to fill out a refill request. ACP updated on duoneb use.

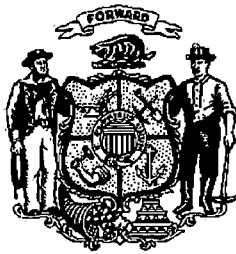
*Apply Copay Charge?* : No

Bleecker, Andrea M - 10/25/2021 16:39 CDT

Exhibit #1

Tony S. Evers  
Governor

Kevin A. Carr  
Secretary



COMPLAINT SUMMARY REPORT

GBCI-2021-16591

State of Wisconsin  
Department of Corrections

Inmate Information:

Inmate Name: RIVERS, DENZEL S.  
Inmate Number: 503053  
Housing Unit: 8N- B  
Cell: B21- L  
Institution: MILWAUKEE SECURE DETENTION FACILITY

Complaint Information:

Date Complaint Received: November 01, 2021  
Subject of Complaint: 1 - Staff  
Staff Involved:  
Brief Summary: Complains staff failed to provide medical attention after 2nd hand exposure to OC.

ICE Recommendation Information (Signed on 11/12/21 3:06:33PM):

Person(s) Contacted: HSM Weinman  
Document(s) Relied Upon: DOC 310  
MAR  
Emergency Call Log  
IR 00492267  
ICE's Summary of Facts: Mr. Rivers writes that staff failed to provide him medical attention after second-hand exposure to O/C spray on October 25, 2021 around 1st shift/2nd shift change.  
ICE Wilson reviewed incident report 00492267 which indicates there was an incident in RHU at approximately 1:54 pm in which staff utilized a Mark 9 fogger.  
ICE Wilson reviewed the RHU Emergency Call Log which indicates Mr. Rivers did not utilize the emergency button at any time after this incident occurred at approximately 1:54 pm to notify staff of a medical emergency.  
ICE Wilson discussed this matter with HSM Weinman who provides MAR documentation by HSU on October 25, 2021, at 4:39 pm. Documentation confirms that Mr. Rivers was assessed and treated by HSU resulting in the patient "feeling much better."  
Mr. Rivers provides no evidence that he was neglected by staff. Rejected pursuant to DOC 310.10(6)(d) whereas, "The inmate does not provide sufficient information to support a complaint."  
ICE's Recommendation: Rejected - Inmate does not provide sufficient information to support complaint.



Tony S. Evers  
Governor

Kevin A. Carr  
Secretary



COMPLAINT SUMMARY REPORT  
GBCI-2021-16591

**State of Wisconsin**  
**Department of Corrections**

ICE's Recommendation Date: November 12, 2021

Lana Wilson

**ICE Recommendation Information (Signed on 11/22/21 7:20:54AM):**

ICE's Summary of Facts:

ICE's Recommendation: Rejected - ICE Appealed

ICE's Recommendation Date: November 22, 2021

Lana Wilson

**Reviewer's Decision on Rejection Appeal (Signed on 11/23/21 9:41:13AM):**

Reviewer's Comments:

Reviewer's Decision: The rejection made by the ICE was Appropriate

Reviewer's Decision Date: November 23, 2021

Randall Hepp

Exhibit #3



C. JURISDICTION



I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR



I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$\_\_\_\_\_.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

Due to the fact that Defendants were deliberate indifferent to plaintiff Medical Condition, providing plaintiff no assistance, "Failure to Protect," Cruel and unusual punishment, Plaintiff is asking to be awarded 90 Thousand Dollars given that Plaintiff could have DIED from an Asthma Attack as well as Defendants bring prior Defendants in prior resolved lawsuit making this act "Retaliation" Violating Plaintiff's 8<sup>th</sup> and 1<sup>st</sup> amendments.... Plaintiff is also asking for 15 hundred Dollars under "PUNITIVE DAMAGES" for Defendants purposely avoiding Plaintiff Medical Condition.



E. JURY DEMAND

I want a jury to hear my case.

☒ - YES

☐ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 2<sup>nd</sup> day of April 2023.

Respectfully Submitted,

*Dezell L. Rivers*  
Signature of Plaintiff

503053  
Plaintiff's Prisoner ID Number

*Applawake Secure Detention P.O. Box 05911*  
*Applawake, WI 53205*  
(Mailing Address of Plaintiff)

**REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FULL FILING FEE**



I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Full Filing Fee form and have attached it to the complaint.



I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.